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3 **DECISION AND ORDER**  
4 **OF THE**  
5 **BOARD OF PSYCHOLOGY**

6  
7 **DEPARTMENT OF CONSUMER AFFAIRS**

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9 The attached Stipulated Decision in case number W 193, is hereby adopted as the  
10 Decision and Order of the Board of Psychology, Department of Consumer Affairs. An effective  
11 date of December 17, 2000 has been assigned to this Decision and Order.

12  
13 Made this 17th day of November, 2000.

14  
15  
16 M.R. Greenberg  
17 Martin R. Greenberg, Ph.D.  
18 President, Board of Psychology  
19 Department of Consumer Affairs  
20  
21  
22  
23  
24  
25

J. Griffin

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ALFREDO TERRAZAS (SBN 78403)  
Deputy Attorney General  
3 California Department of Justice  
1515 Clay Street, 20th Floor  
4 Oakland, California 94512  
Telephone: (510) 622-2220  
5

6 Attorneys for Complainant  
7

8 **BEFORE THE**  
9 **BOARD OF PSYCHOLOGY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. W 193

12 **JAMES J. GRIFFIN, Ph.D.,**  
108 Privada Luisita  
13 Los Gatos, CA 95030

**STIPULATION, WAIVER**  
**AND ORDER THEREON**

14 License No. PSY 12634,  
15 Respondent.  
16

17  
18 IT IS HEREBY STIPULATED by and between James J. Griffin, Ph.D.,  
19 (hereinafter "respondent") and his attorney Jessie F. Ruiz, Esq., ROBINSON & WOOD, Inc.,  
20 and the Board of Psychology (hereinafter "Board") by and through its attorney Alfredo Terrazas,  
21 Deputy Attorney General, as follows:

22 1. Accusation No. W 193 is presently pending before the Board. A copy of  
23 said Accusation is attached hereto as Exhibit A and incorporated herein by reference.

24 2. Respondent is represented by Jessie F. Ruiz, Attorney at Law, of the firm,  
25 ROBINSON & WOOD, Inc.

26 3. Respondent understands the nature of the charges and allegations in  
27 Accusation No. W 193 as constituting cause for discipline upon him and has had them explained  
28 to him by his attorney.

1                   4.       That the respondent's license history and status as set forth at paragraph 2  
2 of the Accusation are true and correct and that the respondent's address of record is as set forth in  
3 the caption of this Stipulation and Waiver.

4                   5.       That at the time of executing and filing the Accusation, Thomas O'Connor  
5 was the Executive Officer of the Board and filed the Accusation solely in his official capacity  
6 and not otherwise.

7                   6.       Respondent is fully aware of and has had explained to him by his attorney  
8 his right to a decision based on a hearing on the charges and allegations in Accusation No. W  
9 193, his right to reconsideration, to appeal and any and all other rights which may be accorded to  
10 him under the California Administrative Procedure Act and the laws of the State of California as  
11 they may be related to Accusation No. W 193.

12                  7.       Respondent fully, voluntarily and after consulting with his attorney waives  
13 his right to a decision based on a hearing, reconsideration and appeal and any and all other rights  
14 which may be accorded to him under the California Administrative Procedure Act and the laws  
15 of the State of California as they may relate to Accusation No. W 193, except his right to petition  
16 for reinstatement after a period of not less than three years following the effective date of this  
17 voluntary surrender pursuant to Business and Professions Code section 2962.

18                  8.       All admissions of fact and conclusions of law contained in this Stipulation  
19 are made exclusively for this proceeding and any future proceeding between the Board of  
20 Psychology and the respondent and shall not be deemed to be admissions for any purpose in any  
21 other administrative, civil or criminal action, forum or proceeding. Respondent understands the  
22 nature of the charges alleged in the Accusation and that, if proven at hearing, the charges and  
23 allegations would constitute cause for imposing discipline upon his certificate as a psychologist.  
24 Respondent and his counsel are aware of each of respondent's rights, including the right to a  
25 hearing on the charges and allegations; respondent's right to confront and cross-examine  
26 witnesses who would testify against him; respondent's right to present evidence in his favor or to  
27 call witnesses in his behalf, or to so testify himself; respondent's right to contest the charges and  
28 allegations and any other rights which may be accorded him pursuant to the California

1 Administrative Procedure Act (Gov. Code, §11500 et seq.); his right to reconsideration, appeal to  
2 the superior court and to any other or further appeal; respondent understands that in signing this  
3 stipulation rather than contesting the accusation, he is enabling the Board to accept the voluntary  
4 surrender of his license without further process. For purposes of the settlement of the action  
5 pending against respondent in Accusation Number W 193 and to avoid a lengthy administrative  
6 hearing that would impose severe economic hardship upon him, the emotional stain upon him  
7 and the patient alleged in the Accusation, as well as the risks associated with such a trial,  
8 respondent admits that, *if proven*, there is a factual and legal basis for the imposition of discipline  
9 by the Board of Psychology pursuant to the allegations, which are substantially related to the  
10 qualifications, functions or duties of a psychologist. Therefore, while neither admitting nor  
11 denying the factual allegations of Accusation Number W-181, regarding respondent's care and  
12 treatment of patient C.H. in California, respondent stipulates to the jurisdiction of the Board of  
13 Psychology to enter as its Decision in this matter the Order contained in this Stipulation, Waiver  
14 and Order Thereon.

15           9.       WHEREFORE respondent desires and agrees to surrender his  
16 psychologist's license to the Board, thereby relinquishing his right to practice psychology in the  
17 State of California effective upon adoption of this surrender and assignment of an effective date  
18 by the Board of Psychology.

19           10.      Respondent specifically waives the renewal provisions of Business and  
20 Professions Code sections 2982, 2984 and 2986 and agrees that he will not apply to the Board to  
21 have his certificate renewed, restored, reissued or reinstated and will not apply for a new  
22 certificate for at least three (3) years after the effective date of this decision and that any such  
23 application shall be deemed a petition for reinstatement of the certificate and treated according to  
24 the provisions of Business and Professions Code section 2962 or any similar section that is in  
25 effect at the time of such an application.

26           11.      Respondent expressly agrees that should he in the future petition for  
27 reinstatement of his certificate, the factual allegations of the First Cause for Disciplinary Action  
28 contained in Accusation Number W-193 shall be deemed admitted..

1                   12.     Respondent understands that by signing this Stipulation he is enabling the  
2 Board of Psychology to issue its order accepting the voluntary surrender of his license without  
3 further process. Respondent understands and agrees that Board staff and counsel for complainant  
4 may communicate directly with the Board of Psychology regarding this Stipulation, without  
5 notice to or participation by respondent. In the event that this Stipulation is rejected for any  
6 reason by the Board, it will be of no force or effect for either party. The Board will not be  
7 disqualified from further action in this matter by virtue of its consideration of this Stipulation.

8                   13.     Respondent clearly understands and agrees that by voluntarily agreeing  
9 to the surrender of his certificate of licensure by the Board for their formal acceptance, upon  
10 acceptance of the Stipulation by the Board, respondent understands that he will no longer be  
11 permitted to practice as a Psychologist in California, and also agrees to surrender and cause to be  
12 delivered to the Board both his license and any other certificate issued to him by them before the  
13 effective date of the decision.

14                   14.     Respondent fully understands and agrees that if and when he files an  
15 application for relicensure or reinstatement in the State of California, the Board shall treat it as a  
16 petition for reinstatement and that respondent must comply with all the laws, regulations and  
17 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all  
18 of the charges and allegations contained in Accusation No. W 193 will be deemed to be true,  
19 correct and admitted by respondent when the Board determines whether to grant or deny the  
20 petition. Further, for purposes of preservation of evidence, Investigative Report Number 1F  
21 1999 94432 dated June 28, 2000 and documents, reports, letters and other records, identified as  
22 Attachment Exhibits 1 through 26 prepared by Senior Special Investigator Cathy L. Lozano, and  
23 appended hereto as Exhibit B may be introduced at the reinstatement hearing and may be  
24 considered, as direct evidence, in deciding whether the certificate should be reinstated.

25                   The above-described documents, clearly labeled, shall be submitted to the Board  
26 for inclusion in respondent's file immediately after the adoption of this stipulation as the Board's  
27 decision in this matter.

28                   15.     Further, respondent agrees that should the Board decide favorably on any

1 Petition for Reinstatement of Licensure filed by respondent, pursuant to Business and  
2 Professions Code section 125.3 (i), respondent agrees to pay the reasonable costs of the  
3 investigation and enforcement of this case. The parties agree that the total of this sum shall be  
4 \$2,361.80

5 16. In consideration for all of the above, the Board of Psychology is  
6 authorized to accept the voluntary surrender of respondent's Psychologist's license No. PSY  
7 12634 upon the terms and conditions specified above.

8 17. IT IS FURTHER STIPULATED AND THE PARTIES AGREE that the  
9 admissions and terms and conditions set forth herein shall be null and void and not binding upon  
10 them unless and until approved and adopted by the Board of Psychology.

11 DATED: Oct 19, 2000

12 BILL LOCKYER, Attorney General of the  
13 State of California

14   
15 ALFREDO TERRAZAS  
16 Deputy Attorney General

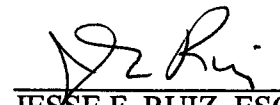
17 Attorneys for Complainant

18 I hereby certify that I have read this Stipulation, Waiver and Order Thereon in its entirety, that I  
19 fully understand all of same, and in witness thereof, I affix my signature this 2<sup>nd</sup> day of October  
20     , 2000 at Los Gatos, California.

21  
22 DATED: 10-2-00

23   
24 JAMES J. GRIFFIN, Ph.D.  
25 Respondent

26 DATED: 10-10-00

27   
28 JESSE F. RUIZ, ESQ.  
Attorney for Respondent

BILL LOCKYER, Attorney General  
of the State of California  
ALFREDO TERRAZAS  
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Attorneys for Complainant

BEFORE THE  
BOARD OF PSYCHOLOGY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JAMES J. GRIFFIN, Ph.D.  
108 Privada Luisita  
Los Gatos, CA 95030

License No. PSY 12634

Respondent.

Case No. W 193

ACCUSATION

THOMAS S. O'CONNOR, complainant herein, charges and alleges as follows:

1. He is the Executive Officer of the Board of Psychology, State of California (hereinafter referred to as the "Board"), and makes these charges and allegations solely in his official capacity.

**LICENSE HISTORY**

2. On or about **March 6, 1992**, respondent, James J. Griffin, Ph.D. (hereinafter referred to as "respondent"), was issued License No. PSY 12634 by the Board of Psychology, authorizing him to practice psychology in the State of California. The license expired on **June 30, 1999**, and is currently in delinquent status. The Board has taken no prior disciplinary action against this license.

3. The incidents alleged herein occurred while respondent was a psychologist practicing in Los Gatos, California.

## STATUTES AND REGULATIONS

4. Section 118 (b) of the Business and Professions Code<sup>1/</sup> provides, in pertinent part, that the expiration of a license issued by a board in the Department of Consumer Affairs shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the Board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2984 of the Code provides, in pertinent part, that a license which has expired may be renewed at any time within three years after its expiration on filing of application for renewal on a form prescribed by the Board and payment of the renewal fee in effect on the last regular renewal date.

6. Section 726 provides that the commission of any act of sexual abuse, misconduct or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action.

7. Section 2960 of the Code provides, in pertinent part, that the Board may suspend, revoke or impose probationary conditions on a licensee for unprofessional conduct, which is defined to include, but not be limited to, any of the following causes:

- (i) Violating any rule of professional conduct promulgated by the Board and set forth in regulations duly adopted under this chapter;
- (j) Being grossly negligent in the practice of her profession;
- (k) Violating any of the provisions of this chapter or regulations duly adopted thereunder;
- (o) Any act of sexual abuse, or sexual relations with a patient, or sexual misconduct that is substantially related to the qualifications, functions or

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1. All statutory references are to the Business and Professions Code unless otherwise noted.

2.

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1 duties of a psychologist or psychological assistant<sup>2</sup>.

2 8. Section 2960.1 provides, in pertinent part, that notwithstanding section 2960,  
3 and proposed decision or decision issued under this chapter, that contains a finding of fact that  
4 the licensee engaged in any act of sexual contact, as defined in section 728, when that act is with  
5 a patient, shall contain an order of revocation. The revocation shall not be stayed by the  
6 administrative law judge.

7 9. Section 728 of the Code provides, in pertinent part, that "*sexual contact*"  
8 means the touching of an intimate part of another person. "*Intimate part*" and "*touching*" have  
9 the same meaning as defined in subdivisions (f) and (d) (1), respectively, of Section 243.4 of the  
10 Penal Code.

11 10. Section 243.4 subdivisions (f) and (d) (1) of the Penal Code define "*intimate*  
12 *part*" and "*touching*" as follows: "*Intimate part*" means the sexual organ, anus, groin, or buttocks  
13 of any person, and the breast of a female. "*Touching*" means physical contact with another  
14 person, whether accomplished directly, through the clothing of the person committing the  
15 offense, or through the clothing of the victim.

16 11. Title 16 California Code of Regulations section 1396.1 provides:

17 *"It is recognized that a psychologist's effectiveness depends upon his or her ability to*  
18 *maintain sound interpersonal relations, and that temporary or more enduring problems*  
19 *in a psychologist's own personality may interfere with this ability and distort his or her*  
20 *appraisals of others. A psychologist shall not knowingly undertake any activity in which*  
21 *temporary or more enduring personal problems in the psychologists' personality*  
22 *integration may result in inferior professional services or harm to a patient or client. If a*  
23 *psychologist is already engaged in such activity when becoming aware of such personal*  
24 *problems, he or she shall seek competent professional assistance to determine whether*  
25 *services to the patient or client should be continued or terminated."*

26 12. Section 125.3 provides, in pertinent part, that in any order issued in resolution  
27

28 2. Complainant has pleaded the language of Section 2960(o) in effect at the time of the  
relevant events set forth in this accusation.

1 of a disciplinary proceeding before any Board within the Department of Consumer Affairs, the  
2 Board may request the administrative law judge to direct a licentiate found to have committed  
3 any violation of the licensing act to pay a sum not to exceed the reasonable costs of the  
4 investigation and enforcement of the case.

5 13. Section 2964.6 provides that, "[a]n administrative disciplinary decision that  
6 imposes terms of probation may include, among other things, a requirement that the licensee who  
7 is being placed on probation pay the monetary costs associated with monitoring the probation."

8 **FIRST CAUSE FOR DISCIPLINARY ACTION**

9 14. In or about **February, 1996**, patient C.H. <sup>3/</sup> was referred to respondent by the  
10 church both attended. C.H. initially sought assistance from respondent for difficulties in coping  
11 with her rebellious teenage son. In or about February, 1996, C.H. and her son began to attend  
12 regular joint therapy sessions with respondent. Respondent also saw C.H.'s son for individual  
13 therapy.

14 15. Commencing in or about **April, 1996**, C.H. began to see respondent for  
15 individual therapy. C.H. initially sought therapy from respondent regarding her relationship with  
16 her troubled son and her deteriorating marriage.

17 16. Shortly after C.H. began her individual therapy, respondent began to confide  
18 in C.H. regarding his personal life and feelings. He discussed personal issues with C.H.,  
19 including his relationship with his wife. Respondent sat next to C.H. during therapy sessions  
20 and put his arm around her shoulder. Eventually, respondent and C.H. began to embrace and  
21 kiss during therapy sessions. Commencing in or about **June or July, 1996**, respondent and  
22 C.H. began to engage in sexual intercourse during some scheduled therapy sessions. While  
23 respondent and C.H. did not engage in sexual intercourse during each therapy session, they did  
24 engage in hugging and kissing in each session. The sexual relationship between C.H. and  
25 respondent continued until in or about **December, 1996**.

26 17. Respondent's conduct as alleged constitutes unprofessional conduct and is

27  
28 3. The name of the patient will be disclosed to respondent pursuant to any request for  
discovery.

1 cause for discipline pursuant to Business and Professions Code sections 726, 728, 2960(i)  
2 [violation of statutes or regulations], and/or 2960(j) [gross negligence], and/or 2960 (o) [sexual  
3 relations or sexual misconduct with a patient] as well as under Title 16 California Code of  
4 Regulations section 1396.1 [interpersonal and/or dual relationships with patients].

5 18. Respondent's conduct as alleged constitutes unprofessional conduct and is  
6 cause for discipline pursuant to Business and Professions Code section 726 , and/or section  
7 2960(o) [sexual misconduct or relations with a patient].  
8

9 PRAYER

10 **WHEREFORE**, the complainant requests that the Psychology Board hold a  
11 hearing on the matters alleged herein and that following said hearing, issue an order:

12 1. Suspending or revoking Psychology License No. PSY 12634 heretofore  
13 issued to James J. Griffin, Ph.D.;

14 2. Ordering respondent to pay the Board the actual and reasonable costs of  
15 the investigation and enforcement of this case; and, if respondent is placed on probation, the  
16 costs of probation monitoring; and,

17 3. Taking such other and further action as the Board deems necessary and  
18 proper.

19 DATED: August 23, 2000  
20

21 

22 THOMAS S. O'CONNOR  
23 Executive Officer  
24 Board of Psychology

25 Complainant  
26  
27  
28

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation  
against:

Griffin, James J., Ph.D.

No. : W-193

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

James J. Griffin, Ph.D.  
108 Privada Luisita  
Los Gatos, CA 95030


7099 3400 0002 4471 5760

Alfredo Terrazas  
Office of the Attorney General  
1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94512

Jesse F. Ruiz, Attorney at Law  
Robinson & Wood, Inc.  
227 North First Street  
San Jose, CA 95113-1016

Each said envelope was then on, November 17, 2000, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, November 17, 2000, at Sacramento, California.  
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
DECLARANT  
Mary Laackmann  
Enforcement Analyst